IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 1401 of 2004

Between:

K.Venkateswarlu, s/o Govindaiah,
R/o H.No.1H3-44/1A, Old Cheque Post Lane, Ramireddipet, Narasaraopet Mandal, Guntur District.

..... PETITIONER

AND

1 Person-in-Management, Sri Mahankali Ammavari Temple,

Issapalem (V), Narasaraopet (M), Guntur District.
2 Assistant Commissioner of Endowments Department,
Guntur.
3 Deputy Commissioner of Endowments,
Guntur.
4 Commissioner of Endowments Department,
A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of as writ of mandamus to declaring the action of the respondents in not promoting the petitioner to post III Grade Executive Officer as illegal, arbitrary and direct the respondents to promote the petitioner to post III Grade Executive Officer and consequently direct the respondents to entry the petitioner name into service register w.e.f. 10-5-1988 and pay the arrears of salaries from 10-5-1988 to 31-3-2003 to implementing the PRC Scales 1993 and 1999.

Counsel for the Petitioner: SMT.S.SWARNA REDDY

Counsel for the Respondent No.1: Smt.Thamsha Rani

Counsel for the Respondent Nos.2 & 3: GP FOR ENDOWMENTS

The Court made the following:

WRIT PETITION NO.1401 OF 2004

ORDER:

Questioning the action of the respondents in not promoting the petitioner to the post of III Grade Executive Officer, and consequently seeking to direct the respondents,

(a) to promote the petitioner to the post of III Grade Executive Officer; and (b) to enter the name of the petitioner into the service register w.e.f. 10-5-1998, the present writ petition has been filed.

The petitioner's case in a nutshell is as follows:

Petitioner has been working as Senior Clerk in Sri Mahankali Ammavari Temple, Issapalem village, Narasaraopet Mandal, Guntur District, from the year 1988.

In December 1995, the Endowments Department has taken over the management of the said temple, but the service of the petitioner was overlooked. Then, the petitioner approached the A.P.Administrative Tribunal, Hyderabad, by filing O.A.No.5680 of 1996. Basing on the verdict delivered by the A.P.Administrative Tribunal in the said OA dated 4-10-1996, the 2nd respondent admitted the case of the petitioner treating him to be in service as Senior Assistant from 11-3-1998. The 4th respondent has also issued R.C.No.C1/35692/98 dated 30-04-2001 treating the period from 30-03-1998 to 18-07-1998 as extraordinary leave, and directed the first respondent to pay arrears of salary to the petitioner. The grievance of the petitioner is that the first respondent is avoiding to update the service register of the petitioner. The petitioner has filed representations dated 28-09-2001 and 14-03-2003, but the same were not considered so far. While so, the posts of III Grade Executive Officers in the said temple fell vacant, and if the service register is not updated, the petitioner being a senior most clerk would lose the opportunity of promotion. Hence, the writ petition.

The learned Counsel appearing for the petitioner contended that in the year 1988, the petitioner was duly appointed as a senior Assistant by the Executive Committee of the first respondent-temple and thereafter, his services have also been regularised by the fourth respondent *vide* proceedings in Rc.No.C1/35962/98, dated 30-04-2001 directing the first respondent to continue the petitioner in the post, which he was holding at the time of taking over the temple. Therefore, the petitioner's seniority in the said post has to be reckoned from the date of his initial entry into the service.

On the other hand, the learned Standing Counsel appearing for the respondents contended that the petitioner was appointed without prior permission from the competent authority, and therefore, the date of his appointment by the committee cannot be taken into consideration for the purpose of determining his seniority and his seniority must be reckoned only from the date of taking over the temple by the Endowments Department. Ultimately, it is pleaded that there are absolutely no grounds to promote the petitioner to the post of III Grade Senior Executive Officer.

Heard learned Counsel on either side. Perused the entire material available on record.

The petitioner has to be promoted to the post of III Grade Executive Officer basing on his seniority. Inasmuch as, the representations of the petitioner are still pending consideration before the third respondent, appropriate decision has to be taken by him with regard to the issues as to whether the petitioner is eligible for promotion, and whether he is entitled to the payment of arrears w.e.f., 10-05-1998 or not.

Therefore, without entering into the merits of the case, I deem it appropriate to dispose of the writ petition directing the third respondent.

Accordingly, the third respondent is directed to pass appropriate orders on the representations of the petitioner dated 14-03-2003 and 28-09-2001 within a period of three months from the date of receipt of a copy of this order.

At this stage, it is submitted by the learned Counsel for the respondents that in pursuance of the interim direction given by this Court in W.P.M.P.No.1822 of 2004, dated 07-03-2005, arrears have also been paid to the writ petitioner. The said payment is also subject to the decision that may be taken by the third respondent.

The writ petition is accordingly disposed of. No costs.

12-07-2005

Note:

Furnish CC

In two days

B/o

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TO

1 The Person-in-Management, Sri Mahankali Ammavari

Temple, Issapalem (V), Narasaraopet (M), Guntur District.

2 The Assistant Commissioner of Endowments Department, Guntur.

3 The Deputy Commissioner of Endowments, Guntur.

4 The Commissioner of Endowments Department, A.P., Hyderabad.

5 Two C.Cs. to G.P. for Endowments, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

6 1 CC to SMT.SWARNA REDDY

7 Two C.D. Copies.